

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RICKY KALEO ONAALII MANUEL,

Plaintiff,

v.

NORTH LAS VEGAS COMMUNITY
CORRECTIONAL CENTER, *et al.*,

Defendants.

Case No. 2:21-cv-01668-GMN-BNW

ORDER

Plaintiff Ricky Kaleo Onaalii Manuel brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while in custody at the North Las Vegas Community Correctional Center. (ECF No. 1-1). On March 11, 2022, this Court ordered Manuel to update his address by April 8, 2022. (ECF No. 9). That deadline expired without an updated address from Manuel, and his mail from the Court is being returned as undeliverable. (See ECF No. 10).

I. DISCUSSION

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives. See *In re*

1 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting
2 *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987)).

3 The first two factors, the public's interest in expeditiously resolving this litigation
4 and the Court's interest in managing its docket, weigh in favor of dismissal of Manuel's
5 claims. The third factor, risk of prejudice to defendants, also weighs in favor of dismissal
6 because a presumption of injury arises from the occurrence of unreasonable delay in filing
7 a pleading ordered by the court or prosecuting an action. See *Anderson v. Air West*, 542
8 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring disposition of
9 cases on their merits—is greatly outweighed by the factors favoring dismissal.


10 The fifth factor requires the Court to consider whether less drastic alternatives can
11 be used to correct the party's failure that brought about the Court's need to consider
12 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
13 that considering less drastic alternatives *before* the party has disobeyed a court order
14 does not satisfy this factor); accord *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
15 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that
16 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court's
17 order as satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled
18 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).
19 Courts “need not exhaust every sanction short of dismissal before finally dismissing a
20 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779
21 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed without
22 the ability for the Court and the defendants to send Manuel case-related documents,
23 filings, and orders, the only alternative is to enter a second order setting another deadline.
24 But without an updated address, the likelihood that the second order would even reach
25 Manuel is low, so issuing a second order will only delay the inevitable and further
26 squander the Court's finite resources. Setting another deadline is not a meaningful
27 alternative given these circumstances. So the fifth factor favors dismissal.

28

Having thoroughly considered these dismissal factors, the Court finds that they weigh in favor of dismissal. It is therefore ordered that this action is dismissed without prejudice based on Manuel's failure to file an updated address in compliance with this Court's March 11, 2022, order. The Clerk of Court is directed to enter judgment accordingly and close this case. No other documents may be filed in this now-closed case. If Manuel wishes to pursue his claims, he must file a complaint in a new case and provide the Court with his current address.

It is further ordered that Manuel's motion to remove hold (ECF No. 6) and application to proceed *in forma pauperis* (ECF No. 7) are denied as moot.

DATED THIS 14 day of April 2022.


Gloria M. Navarro, Judge
United States District Court